IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

WP(C).No. 18576 of 2006(J)

PETITIONER:

K.B. MOHAMMED, S/O. BAVA,
AGED ABOUT 46 YEARS, KARIMATTAM,
KUMMANODE, PATTIMATTOM P.O.,
KUNNATHUNAD TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.M.P.MOHAMMED ASLAM

RESPONDENTS:

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1. CONCRETE AGGREGATE INDUSTRIES,
KUMMANCODE, P.O. PATTIMATTOM, KUNNATHUNAD TALUK,
ERNAKULAM DISTRICT, REP. BY ITS MANAGING PARTNER
M.C. GEORGE, S/O. CHACKO, MUTHUKATTU VEETTIL
KEEZHILLAM, MATHAMANGALAM.

2. THE DISTRICT COLLECTOR,
CIVIL STATION, ERNAKULAM.

3. THE TAHSILDAR, KUNNATHUNAD TALUK,
OFFICE OF THE KUNNATHUNAD TALUK TAHSILDAR,
PERUMBAVOOR.

4. KIZHAKKAMBALAM PANCHAYAT
REPRESENTED BY ITS SECRETARY, OFFICE OF THE
KIZHAKKAMBALAM PANCHAYAT, KIZHAKKAMBALAM
KUNNATHUNAD TALUK, ERNAKULAM DISTRICT.

5. THE KERALA STATE POLLUTION CONTROL BOARD, OFFICE
OF THE KERALA STATE POLLUTION CONTROL BOARD,
THIRUVANANTHAPURAM.

6. DIRECTOR OF MINING AND GEOLOGY, DIRECTORATE OF
MINING & GEOLOGY, THIRUVANANTHAPURAM.

7. SENIOR GEOLOGIST, OFFICE OF THE SENIOR GEOLOGIST,
ERNAKULAM.

8. JOINT CHIEF CONTROLLER OF EXPLOSIVES,
SOUTH CIRCLE, CHENNAI

R8 CORRECTED AS PER ORDER DT.5.12.06 IN I.A.16672.06)

R1 BY ADV. SRI.V.GIRI
R2, R3, R6 BY GOVT. PLEADER
R4 BY SRI.MURALI PURUSHOTHAMAN
SRI.P.M.BENZIR
SRI.DEEPU LAL MOHAN
R5 BY SMT.K.K.THULASY BHAI,SC,POLLUTION C.BOA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC./06

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ACKNOWLEDGEMENT DATED 10.6.06 ISSUED BY THE MINES MANAGER OF THE 1ST RESPONDENT.

EXT.P2: TRUE COPY OF THE COMPLAINT BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 25.2.06.

EXT.P3: TRUE COPY OF THE COMPLAINT BY 32 RESIDENTS OF KUMMANODE BEFORE the 4TH RESPONDENT DATED NIL.

EXT.P4: TRUE COPY OF THE COMPLAINT BY 32 RESIDENTS OF KUMMANODE BEFORE THE 8TH RESPONDENT DATED NIL.

EXT.P5: TRUE COPY OF THE COMPLAINT BY 34 RESIDENTS OF KUMMANODE BEFORE the 2ND RESPONDENT DATED NIL.

EXT.P6: TRUE COPY OF THE REPORT OF THE 3RD RESPONDENT BEARING NO.G3-3851/06/K.DIS. DATED 1.4.2006.

EXT.P7: TRUE COPY OF THE REPRESENTATION SUBMITTED BY 68 RESIDENTS OF KUMMANODE BEFORE THE 2ND RESPONDENT DATED 8.5.2006.

EXT.P8: TRUE COPY OF THE REPRESENTATION SUBMITTED BY 68 RESIDENTS OF KUMMANODE BEFORE THE 4TH RESPONDENT DATED 8.5.2006.

EXT.P9: TRUE COPY OF THE ORDER NO.M4/17358/2006 PASSED BY THE 2ND RESPONDENT DATED 26.6.2006.

EXT.P10: TRUE COPY OF THE REPORT OF THE ASSISTANT EXECUTIVE ENGINEER, BUILDIGNS SUB DIVISION, PERUMBAVOOR DATED 20.6.06.

EXT.P11: TRUE COPY OF THE LETTER OF MINES MANAGER OF THE 1ST RESPONDENT'S QUARRY DATED 10.6.2006.

RESPONDENTS' EXHIBITS:

EXT.R1(a): TRUE COPY OF THE QUARRYING LEASE DATED 15.5.1998.

EXT.R1(b): TRUE COPY OF LICENCE DATED 3.4.06 ISSUED BY THE KIZHAKAMBALAM GRAMA PANCHAYAT.

EXT.R1(c): TRUE COPY OF LICENCE DATED 17.4.06 ISSUED BY THE KIZHAKAMBALAM GRAMA PANCHAYAT.

EXT.R1(d): TRUE COPY OF THE CONSENT RENEWAL ORDER ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD DATED 7.3.2006.

EXT.R1(e): TRUE COPY OF THE COMMUNICATION BEARING DATED 14.10.05 ISSUED BY THE JT. CHIEF CONTROLLER OF EXPLOSIVES.

EXT.R1(f): TRUE COPY OF THE LICENCE IN FORM 38 OF EXPLOSIVES RULES DATED 9.12.1996.

EXT.R1(g): TRUE COPY OF THE CERTIFICATE ISSUED TO MR.E.V.GEOGE, MINES MANAGER.

EXT.R1(h): TRUE COPY OF THE JUDGMENT OF DIVISION BENCH OF THIS HON'BLE COURT DATED 5.10.95 IN WA.NO.846/1988.

EXT.R1(i): TRUE COPY OF THE JUDGMENT OF A LEARNED SINGLE JUDGE OF THIS HON'BLE COURT DATED 7.2.2005 IN OP NO.16876/95.

EXT.R1(j): TRUE COPIES OF COMMUNICATIONS ISSUED BY THE POLLUTION CONTROL BOARD TO THE PETITIONER.

EXT.R1(k): TRUE COPY OF THE REVIEW PETITION FILED BEFORE DISTRICT COLLECTOR.

EXT.R1(l): TRUE COPY OF ORDER NO.G3-6256/09 DATED 12.7.06 ISSUED BY THE TAHSILDAR, KUNNATHUNAD.

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.18576 OF 2006

Dated this the 12th day of February, 2007

JUDGMENT

This matter relates to an allegation regarding the manner in which mining activities, including blasting using explosives, are being carried on by the respondent. The complaint also relates to the crusher unit. Having regard to the stand taken in the counter affidavit and the pleadings of the Pollution Control Board, I do not deem it necessary for this Court to intervene in this matter as of now and venture on an adjudication as to whether the activities of the first respondent are carried on within the limits prescribed by law.

2. In the aforesaid circumstance, without expressing anything on merits, this writ petition is disposed of directing that the Environmental Engineer, Kerala State Pollution Control Board will first consider the case and issue such orders as are necessary to ensure that the directions of the PCB are

scrupulously complied with. In the event of the PCB requiring any further clarification from the senior Geologists or the competent authority dealing with explosives, the same shall also be sought for. The views of the Secretary of the Panchayat and the Tahsildar will also be sought for, if necessary. If such decision is taken and directions issued, if found needed, further action could be pursued by the competent respondents in accordance with law. Let the Environmental Engineer of the PCB finalise the proceedings within a period of one month from the date of receipt of a copy of this judgment. Needless to say that the petitioner and the first respondent will be given an opportunity of being heard.

The writ petition is disposed of with the above directions.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.